

House Calendar No.

108TH CONGRESS
2D SESSION

H. J. RES. 83

[Report No. 108-]

Proposing an amendment to the Constitution of the United States regarding the appointment of individuals to fill vacancies in the House of Representative.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 8, 2003

Mr. BAIRD introduced the following joint resolution; which was referred to the Committee on the Judiciary

MAY , 2004

Reported adversely from the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States regarding the appointment of individuals to fill vacancies in the House of Representatives.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled*
3 *(two-thirds of each House concurring therein), That the fol-*
4 *lowing article is proposed as an amendment to the Con-*
5 *stitution of the United States, which shall be valid to all*
6 *intents and purposes as part of the Constitution when*

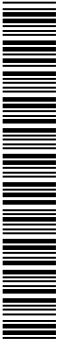


1 ratified by the legislatures of three-fourths of the several
2 States within seven years after the date of its submission
3 for ratification:

4 “ARTICLE —

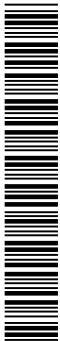
5 “SECTION 1. Prior to taking the oath of office, an
6 individual who is elected to serve as a Member of the
7 House of Representatives for a Congress shall present to
8 the chief executive of the State from which the individual
9 is elected a list of nominees to take the individual’s place
10 in the event the individual dies or becomes incapacitated
11 prior to the expiration of the individual’s term of office.
12 The individual shall ensure that the list contains the
13 names of not fewer than two nominees, each of whom shall
14 meet the qualifications for service as a Member of the
15 House of Representatives from the State involved. After
16 the individual takes the oath of office, the individual may
17 present revised versions of the list at any time during the
18 Congress.

19 “SECTION 2. If at any time a majority of the whole
20 membership of the House of Representatives are unable
21 to carry out their duties because of death or incapacity,
22 or if at any time the House adopts a resolution declaring
23 that extraordinary circumstances exist which threaten the
24 ability of the House to represent the interests of the people
25 of the United States, the chief executive of any State rep-



1 resented by any Member who is dead or incapacitated at
2 that time shall appoint, from the most recent list of nomi-
3 nees presented by the Member under section 1, an indi-
4 vidual to take the place of the Member. The chief executive
5 shall make such an appointment as soon as practicable
6 (but in no event later than seven days) after the date on
7 which Member's death or incapacity has been certified. An
8 individual appointed to take the place of a Member of the
9 House of Representatives under this section shall serve
10 until the Member regains capacity or until another Mem-
11 ber is elected to fill the vacancy resulting from the death
12 or incapacity. The State shall provide for an election to
13 fill the vacancy at such time and in accordance with such
14 procedures as may be provided under State law, and an
15 individual appointed under this section may be a candidate
16 in such an election. This section shall not apply with re-
17 spect to any Member of the House who dies or becomes
18 incapacitated prior to the seven-day period which ends on
19 the date on which the event requiring appointments to be
20 made under this section occurs.

21 "SECTION 3. During the period of an individual's ap-
22 pointment under section 2, the individual shall be treated
23 as a Member of the House of Representatives for purposes
24 of all laws, rules, and regulations, but not for purposes
25 of section 1. If an individual appointed under section 2



1 is unable to carry out the duties of a Member during such
2 period because of death or incapacity, the chief executive
3 of the State involved shall appoint another individual from
4 the same list of nominees presented under section 1 from
5 which the individual was appointed under section 2. Any
6 individual so appointed shall be considered to have been
7 appointed under section 2.

8 “SECTION 4. Congress may by law establish the cri-
9 teria for determining whether a Member of the House of
10 Representatives or Senate is dead or incapacitated, and
11 shall have the power to enforce this article through appro-
12 priate legislation.”.

